

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

JAMES A. HENSON,

*

Plaintiff,

*

v.

Civil Action No. JKB-19-3166

*

HOLLY PIERCE, N.P., *et al.*,

*

Defendant.

ORDER

On January 14, 2021, Defendants filed a Suggestion of Death of Plaintiff James Henson. (ECF No. 33.) Shortly thereafter, Defendants filed a status report stating that it served Plaintiff's brother, Michael Henson, with the suggestion of death on January 22, 2021. (ECF No. 36.)

On March 3, 2021, pursuant to this Court's previous order directing Defendants to file a motion to dismiss or a status report within 90 days of serving Plaintiff's successor with the suggestion of death (ECF No. 34), Defendants filed a Motion to Dismiss (ECF No. 37).

Rule 25(a)(1) of the Federal Rules of Civil Procedure provides:

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Because over 90 days have passed since service of the suggestion of death was made, and Mr. Henson has filed nothing with this Court indicating a desire to pursue the claims raised in the Complaint, the case shall be dismissed pursuant to Fed. R. Civ. P. 25.

Accordingly, it is by the United States District Court for the District of Maryland, hereby ORDERED that:

1. Defendants' Motion to Dismiss (ECF No. 37) IS GRANTED;
2. The Complaint IS DISMISSED without prejudice;
3. The Clerk SHALL PROVIDE a copy of this Order to counsel;
4. The Clerk SHALL MAIL a copy of this Order to Michael D. Henson, 428 Howard Manor Drive, Glen Burnie, Maryland 21060; and
5. The Clerk SHALL CLOSE this case.

Dated this 27 day of April, 2021.

FOR THE COURT:


James K. Bredar
James K. Bredar
Chief Judge